

a corporate part of the General Financial Statement.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

[G.O. 50, 7 FR 588, Jan. 29, 1942, as amended at 45 FR 68394, Oct. 15, 1980]

PART 277—DOMESTIC AND FOREIGN TRADE; INTERPRETATIONS

§ 277.1 Guam, Midway and Wake.

Steamship service between ports of the United States mainland and ports in the islands of Guam, Midway and Wake is not "domestic intercoastal or coastwise service" within the meaning of section 805(a) of the Merchant Marine Act, 1936. This interpretation is limited to Guam, Midway and Wake and does not signify that a similar interpretation is or would be applicable to Hawaii, Puerto Rico or Alaska.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114. Interprets or applies sec. 805, 49 Stat. 2012, as amended; 46 U.S.C. 1223)

[G.O. 73, 15 FR 9065, Dec. 19, 1950]

PART 280—LIMITATIONS ON THE AWARD AND PAYMENT OF OPERATING-DIFFERENTIAL SUBSIDY FOR LINER OPERATORS

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AUTHORITY: Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114) Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

SOURCE: 42 FR 61460, Dec. 5, 1977, unless otherwise noted.

§ 280.1 Purpose.

The purpose of this part is to prescribe regulations governing the award of operating-differential subsidy agreements and payment of operating-differential subsidy to liner operators under Title VI of the Merchant Marine Act, 1936, as amended, as interpreted by the Maritime Subsidy Board in Docket No. S-244.

§ 280.2 Definitions.

For purposes of this part only:

(a) *Commercial cargo* means cargo other than military cargo and civilian preference cargo.

(b) *Military cargo* means that cargo required to be carried on a U.S.-flag vessel by 10 U.S.C. 2631.

(c) *Civilian preference cargo* means any cargo other than military cargo required by law to be carried on a U.S.-flag vessel, including, but not limited to, cargo required to be carried on a U.S.-flag vessel by 15 U.S.C. 616a and 46 U.S.C. 1241(b).

(d) *Conference-rated civilian preference cargo* means any civilian preference cargo moving at rates set by an international rate conference.

(e) *International rate conference* means any formal organization of competing carriers established for the purpose of setting shipping rates.

(f) *Open-rated civilian preference cargo* means any civilian preference cargo moving at a rate other than a set rate established by an international rate conference.

(g) *Open-rated civilian preference cargo carried at the world rate* means any open-rated civilian preference cargo that is considered pursuant to § 280.5 not to be carried at a premium rate.

(h) *Competitive cargo* means commercial cargo, conference-rated civilian preference cargo, and open-rated civilian preference cargo carried at the world rate.

(i) *Secretary* means the Secretary of the Maritime Administration, Department of Transportation.

(j) *Region Director* means the Region Director of the Maritime Administration within whose region the principal office of the operator is located.

(k) *Operator* means any individual, partnership, corporation or association that contracts with the United States

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Government under Title VI of the Act to receive ODS.

(l) *Board* means the Maritime Subsidy Board of the Maritime Administration, Department of Transportation.

(m) *Act* means the Merchant Marine Act, 1936, as amended.

(n) *Operating-differential subsidy (ODS)* means, except as the operator and the United States Government shall agree upon a lesser amount, the excess of the cost of subsidizable items of expense incurred in the operation under United States registry of a vessel over the estimated fair and reasonable cost of the same items of expense (excluding any increase in the cost of such items necessitated by features incorporated for national defense), if such vessel were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel.

(o) *Gross freight revenue* means total gross receipts earned from the carriage of cargo (other than mail) in the U.S. foreign commerce.

(p) *Miscellaneous gross revenue* means total gross receipts earned in the U.S. foreign commerce from the carriage of passengers and mail plus miscellaneous voyage revenues.

(q) *Inbound gross freight revenue* means gross freight revenue earned from the carriage of cargo in foreign commerce inbound to the United States.

(r) *Outbound gross freight revenue* means gross freight revenue earned from the carriage of cargo in foreign commerce outbound from the United States.

(s) *Wayport gross freight revenue* means gross freight revenue earned from the carriage of cargo between foreign ports.

(t) *Total gross revenue* means the sum of inbound gross freight revenue, outbound gross freight revenue, wayport gross freight revenue and miscellaneous gross revenue.

(u) *Service* means any essential service in the foreign commerce of the United States under section 211(a) of the Act for which an ODS agreement has been entered into by the operator and the United States.

(v) *ODS payable on the inbound leg of a service* means the inbound gross freight revenue of the service divided

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by the total gross revenue of the service times the ODS payable for the service.

(w) *ODS payable on the outbound leg of a service* means the outbound gross freight revenue of the service divided by the total gross revenue of the service times the ODS payable for the service.

(x) *U.S. foreign commerce* means the commerce or trade between the United States, its territories or possessions, or the District of Columbia and a foreign country.

§ 280.3 Standards governing award of an ODS agreement.

No ODS agreement, including any amendments thereto concerning additional services or revised service area, shall be made under Title VI of the Act, unless the applicant establishes in its application to the satisfaction of the Board, that the vessel operations proposed to be subsidized will be conducted in a manner which will not preclude the applicant from earning at least 50 percent of its inbound gross freight revenue and at least 50 percent of its outbound gross freight revenue for each service covered by the application from the carriage of competitive cargo.

§ 280.4 Standards governing payment of ODS.

(a) *Full payment.* Except to the extent otherwise provided in § 280.8, ODS shall be paid in full to the operator for vessel operations on the inbound and outbound legs of each service if, during the calendar year, at least 50 percent of the inbound and 50 percent of the outbound gross freight revenues earned on voyages terminated during the calendar year, for each service, are earned from the carriage of competitive cargo.

(b) *Reduction in payment*—(1) *Inbound leg of service.* The amount of ODS payable for the inbound leg of a service for the calendar year shall be reduced as provided in paragraph (b)(3) of this section if, during the calendar year, less than 50 percent of the inbound gross freight revenue earned in such service, on voyages terminated during the calendar year, is earned from the carriage of competitive cargo.